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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,615	12/24/2003	Richard Morabito	LC 0143 PUS	1614
36014	7590	03/24/2006		
JOHN A. ARTZ ARTZ & ARTZ, P.C. 28333 TELEGRAPH ROAD, SUITE 250 SOUTHFIELD, MI 48034			EXAMINER ABRAHAM, TANIA	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/707,615	<b>Applicant(s)</b> MORABITO ET AL.	
	<b>Examiner</b> Tania Abraham	<b>Art Unit</b> 3636	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 7-16 is/are rejected.
- 7) ☒ Claim(s) 4 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16, drawn to the apparatus, classified in class 297, subclass 188.01.
  - II. Claims 17-20, drawn to the method, classified in class 29, subclass 428.

The inventions are distinct, each from the other because of the following reasons: the apparatus can be made by a different method.

2. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
3. During a telephone conversation with Thomas Donohue on March 7, 2006 a provisional election was made without traverse to prosecute invention I, claims 1-16. Affirmation of this election must be made by applicant in replying to this Office action. Claims 17-20 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.
4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 13-14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Jakubiec et al. [US 6129400]. Jakubiec et al (fig. 1-4) discloses structure as claimed, including a center console 10 with a first compartment 12 and a second compartment 16 and lid 20. The first compartment 12 is a container with attaching means 28. Attaching means 28 effectively join the front row seats when mounted to front seat inboard risers 56. The second compartment 16 is also a container hinged to the first compartment so that it swings between a vertical/open position and a horizontal/closed position. The bottom of second compartment 16 is viewed as open, in that it contains cavities 134. When second compartment 16 is in the horizontal position it extends the storage depth of the console from that of the first compartment 12 to that of the combined depth of the first and second compartments. Moreover, the second compartment is locked in that horizontal/closed position via latch 32 and release 74, and its' walls are effectively engaged with the walls of the first compartment 12. Concerning claim 2, the first and second compartments are considered generally tangential to the seat bottom when horizontal/closed and the second compartment 16 is considered tangential to the backrest when vertical/open.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 5, 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakubiec et al in view of Tiesler et al [US 6045173]. Jakubiec et al teaches structure as previously outlined except a sleeve for the first compartment formed by the second compartment and a lid including an armrest. Tiesler et al (fig. 1-5) teaches a vehicle console having a lid 20 formed of foam 68 and covered with a flexible skin 70 to be used as an armrest. Tiesler et al also teaches having an upper portion 16 of the console with inner depending walls 40 and outer depending walls 44 which form a sleeve for receiving the top and the walls of storage bin 26. Hence, it would have been obvious to one possessing ordinary skill in the art at the time of invention to modify the

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structure of Jakubiec et al according to the teachings of Tiesler et al to further secure the second compartment while in the horizontal position to the first compartment and provide an armrest for the front row occupants of a vehicle.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jakubiec et al in view of Lein et al [US 6761388]. Jakubiec et al teaches structure as previously described except having a removable tray within the first compartment of the console.

Lein et al (fig. 2-4) teaches a vehicle console having a drawer 54 within the lower portion of console component 20. So it would have been obvious for one of ordinary skill in the art at the time of invention to modify Jakubiec et al's first compartment to contain a drawer, as taught by Lein et al in order to provide removable storage space for items delineated by Lein et al in col. 4 lines 10-14.

11. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakubiec et al in view of Klopp, III et al [US 6851736]. Jakubiec et al teaches structure as previously summarized, but does not teach a cup-holding assembly mounted to the forward end of the console or an air conditioning assembly mounted to the rearward end of the console. Klopp, III et al (fig. 1-7) teaches a vehicle console with first module 104 having cup holders 124 and slidably mounted to the forward end of the console, as well as rear portion 150 mounted to the console having air conditioning vents under the pivoting means of the topmost module 108. The lowest compartment 102 includes divider 112. Therefore, it would have been obvious to a person with ordinary skill in the art at the time of invention to improve Jakubiec et al's console by adding the structures

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taught by Klopp, III et al. to provide a food and beverage storage area to the occupants in the first row and direct air conditioning to the occupants in the back row of a vehicle.

***Allowable Subject Matter***

12. Claims 4 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 9:30am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tania Abraham



Peter M. Cuomo  
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Technology Center 3600

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